UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,719	09/29/2003	Charles Steven Roush	4366-135	6343

48500   7590   07/01/2008
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EXAMINER
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ART UNIT	PAPER NUMBER
2136	

MAIL DATE	DELIVERY MODE
07/01/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	**Applicant(s)**
Advisory Action ***Before the Filing of an Appeal Brief***	10/675,719	ROUSH ET AL.
	Examiner	**Art Unit**
	CHINWENDU C. OKORONKWO	2136

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>11 June 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: _____.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Nasser G Moazzami/
Supervisory Patent Examiner, Art Unit 2136

U.S. Patent and Trademark Office

PTOL-303 (Rev. 08-06)   **Advisory Action Before the Filing of an Appeal Brief**   Part of Paper No. 20080625

Continuation of 11. does NOT place the application in condition for allowance because: Applicant presents the same arguments as the communication of 7/11/2007, however the Examiner will respond to the arguments. The Applicant argues that the Examiner falls far short of teaching a tunnel through the firewall to deliver servicing commands to components on the protected network components, however Examiner submits that the Applicant provdes no support for this argument within the claim language as "a tunnel through the firewall to deliver servicing commands to components" is found nowhere in the claim language. Futher what is claimed is a "establishing, through the firewall, s session with a servicing computational component," and Exmainer maintains that the disclose by Freed et al. of "establishing a communication session with the ISP … (26:6-26)" reads upon this argued limitation. Consideration of Figure 5 further discloses that "ISP 156 provides means such as computers and/or network servers via which a client device such as the CPE 18 may connect to the data network 28. To connect to the data network 28, a CPE user may dial one or more telephone numbers to establish a network connection to one of the computers that are owned or managed by the ISP 156 (12:61-67)." Examiner further points to column 25 lines 41-57 which discloses an "ISP … implemented with a firewall system … for packet filtering, monitoring or logging of sessions between the data network and other network. In one embodiment, the packet filtering firewall may simply filter packets transmitted between two networks to which it is connected. To do this, the firewall system uses protocols that are employed on the two networks, such as TCP/IP, for example, so that the firewall system knows the structure of the protocols and, thus, can filter data within them. In one embodiment, the firewall system could be controlled with a number of filtering rules that may differ for an ingress interface and for egress interface. Thus, typically, a network administrator can specify different access rules and a list of connections from and to the data network such as an Internet network." In response to Applicant argument that Freed et al. does not disclose instant messaging and VoIP protocols the Examiner points to the previous citations as disclosing use of protocols of TCP/IP of which instant messaging and VoIP are included. In response to the argument servicing commands of claims 10 and 11 are neither suggested nor disclosed, the Examiner cites column 6 lines 34-44, which recites, "a call management server and a gate controller … the call management server may enable the media terminal adapter to establish multimedia sessions including voice communications applications such as 'IP telephony' or ' VoIP'. The gate controller may be used to perform authorization and authentication checks for users attempting to connect to the CMTS 12."

In light or this response, the Examiner maintains the rejections to the current claims and submits that any further consideration of the claims will require reconsideration of the reference or record in its entirety and possibly a new search.